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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/542,205	04/04/2000	Roy P DeMott	2172	5646

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EXAMINER

JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/18/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

AS AS-8

Office Action Summary

Application N .

09/542,205

Applicant(s)

DEMOTT ET AL.

Examin r

Cheryl Juska

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Amendment A, submitted as Paper No. 7 on June 19, 2002, has been entered. Claim 6 has been cancelled. Thus, the pending claims are 1-5.

2. Applicant's arguments with respect to the 112, 2nd rejection of claim 4 (Amendment A, section 1, page 2) have been found persuasive. Thus, the term "side wall" is limited to the outside wall of the pile fibers from the base to the ends.

Claim Rejections - 35 USC § 102/103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 3 and 4 stand rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. 103(a) as being obvious over EP 784 114 issued to Huth et al., as set forth in section 5 of the last Office Action.

Claim Rejections - 35 USC § 103

5. Claims 1, 2, and 5 stand rejected under 35 U.S.C. 103(a) as being obvious over EP 784 114 issued to Huth et al., as set forth in sections 6 and 7 of the last Office Action.

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Response to Arguments

6. Applicant's arguments filed with Amendment A have been fully considered but they are not persuasive.

7. Applicant traverses the above rejections by arguing that Huth uses abrasive coated bristles to “beat” the fabric, as opposed to the present invention which does not (Amendment A, section 2, page 2). As such, Applicant asserts, with respect to claims 3 and 4, that the method of Huth cannot inherently produce the claimed product. In response, it is argued that a recently obtained translation of Huth teaches that the term “beating” of the fabric is equivalent to “wiping-impact contact” (translation, page 3, lines 11-13). Specifically, Huth teaches that the invention of a rotating emery-covered roller having beating ledges or bristles comes into contact with the fabric pile wherein said beating ledges “exert a wiping contact or wiping-impact contact” upon the pile (translation, page 3, lines 5-13). Additionally, Huth states the following:

As a result of the invention, not only does each emery segment, set with or occupied by bristles—short brush emery segments—collectively exert a wiping contact upon the web of fabric, but over the course of the operation, each bristle actually, in its individual capacity, acts as a beater upon the textile web. (translation, page 5, lines 17-22).

Thus, Huth clearly teaches that not only an abrasive beating contact occurs, but also an abrasive wiping contact.

Applicant also argues that Huth does not teach Applicant's features of abrasive roller diameters, mesh sizes, directional action, tension, etc. or pile fibers having an enlarged end (Amendment A, paragraph spanning pages 2-3). In response, it is noted that the features upon which applicant relies are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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Additionally, Applicant argues that due to the differences in process and equipment, the Huth invention cannot inherently produce the presently claimed invention. In response, it is argued that it is still reasonable to presume that invention of Huth would inherently produce the presently claimed 'disturbances around a majority of the circumference of the free end pile fiber,' 'at least one fibril extending from the side wall,' and 'at least one fibril extending from the free end.' Applicant's arguments have not shown (1) that a beating action does not inherently produce the claimed features nor (2) that the combination of beating and wiping of Huth would not inherently produce the claimed features. In fact, due to Huth's *dual action* of beating and wiping, it is even more reasonable to presume that the Huth product would be the same or similar to Applicant's. Since Applicant is claiming an abraded product, rather than a process or even, a product by process, it is the Examiner's position that the claimed product appears to be the same or similar to that of the prior art, although perhaps produced by a slightly different method. Applicant has not yet met the burden of showing otherwise. Therefore, Applicant's arguments are found unpersuasive and the above rejections based upon Huth are maintained.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Cheryl Juska whose telephone number is 703-305-4472. The Examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



CHERYL A. JUSKA
PRIMARY EXAMINER

cj
September 8, 2002